

# Communications

*TRADITION* welcomes and encourages letters to the editor. Letters, which should be brief and to the point, should not ordinarily exceed 1000 words. They should be sent on disk, together with a double-spaced hard copy, to Rabbi Emanuel Feldman, Editor, Congregation Beth Jacob, 1855 LaVista Road NE, Atlanta, GA.

## JEWISH LEGAL WRITINGS BY WOMEN

TO THE EDITOR:

Recent issues of *Tradition* have discussed women's Torah learning. In vol. 33, no.2 (Winter, 1999), Rabbi Aharon Feldman's review took issue with Prof. Susan Handelman's essay in *Jewish Legal Writings by Women*. This was followed in vol. 34, no.1 (Spring 2000) by Rabbi Barry Freundel's objections and R. Feldman's rejoinder.

Firstly, it should be made clear that Dr. Handelman's essay misrepresents the views of the Lubavitcher Rebbe, *z"tl*, regarding Torah study for women. Her essay is basically an English rendition of two talks given by the Rebbe. One appears in *Likutei Sihot* (Vol. 14) which is based on a talk given on Shavuot, 5730/1970; the second was delivered on Shabbat, *Parashat Emor*, 5750 (1990).

Dr. Handelman presents the first as a "remarkable transformation in understanding . . . women's halakhic obligations to study Torah" (p. 163), which has "many interesting practical ramifications", and a "radical understanding of women's relation to Torah" (p.172). According to Dr. Handelman, the consequential ramifications of the "radical" *siha* of 1970 found final expression in the Rebbe's talk twenty years later.

None of this has any basis in fact. There is not the slightest indication from the transcripts of the actual talk, nor from the essay printed in *Likutei Sihot*, that the Rebbe intended to depart even one iota from the traditional understanding of women's obligations in Torah study. In point of fact, the Rebbe's talk in 1990 had no connection with his talk in 1970—which in itself was nothing radical. Dr. Handelman's suggestion—that the Rebbe's explanation can be construed as a challenge to the accepted ruling of the Rambam regarding women's exemption from the *mitsva* of *ketivat sefer Torah* is far off the mark. As an analysis of the original material can readily attest, the Rebbe was dealing with a theoretical issue—similar to what a Rosh Yeshiva might do in a Talmudic *shiur*—and was making no departures, radical or otherwise, from anything.

As wrongheaded as is Dr. Handelman's thesis, R. Feldman, in my view, misses the point in his reading of Dr. Handelman, which leads him to make the unfounded claim that the Rebbe's reasoning was "flimsy." He is needlessly troubled that the Rebbe seems to disagree with the Gra and the Bet HaLevi, and that Dr. Handelman favors the Rebbe and the earlier great sages. R. Freundel's defense of Dr. Handelman makes the same mistake.

The fact is that anyone familiar with the Rebbe's approach to classical Jewish texts knows that the Rebbe rarely if ever challenged great sages of the past, even in non-halakhic matters. Furthermore, the Rebbe, except for on rare occasions, refrained from dealing with practical halakhic issues. The constraints of a letter do not permit a full exposition of the halakhic details of this issue, but suffice it to say that, in the instance under discussion, the Rebbe is not at all challenging the Gra, but rather explaining the Baal HaTanya who accepts the reasoning of the Gra's disputant. May I add that all parties to the discussion would do well to re-study the original Hebrew writings of the Rebbe on this subject.

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## OF ELECTIONS AND PIPE DREAMS—THE ISRAEL SUPREME COURT

TO THE EDITOR:

I enjoyed Emanuel Feldman's editorial piece in the Summer 1999 *Tradition* (33:4), save one phrase that I believe to be the subject of a potentially dangerous mischaracterization.

Rabbi Feldman writes that the Israeli courts are notoriously anti-religious. In their being *notoriously* anti-religious, Feldman may be correct; that they are in fact anti-religious is an assertion with which I vehemently disagree. Such characterization of the court system does nothing but increase the already divisive nature of Israeli society in general and the fragile state of religious-secular relations in particular.

[By way of disclosure, I should note that I am a religious Jew who served as a law clerk to one of the Israeli Supreme Court Justices during the 1998-1999 academic year. Throughout my clerkship, I kept a careful eye on issues relating to religion and state within the Israeli court systems.]

No doubt, a significant percentage of the Israeli religious popula-

tion believes the court system to be anti-religious. Religious leaders in Israel lambaste the courts (the Israeli Supreme Court in particular) for purposefully undermining the religious nature of the State of Israel. Cries of anti-religious bias culminated last year in a massive religious protest against the Supreme Court and vitriolic attacks against the judges themselves by Shas spiritual leader and former Sephardic Chief Rabbi, Rabbi Ovadia Yosef.

There is little question that the activist Supreme Court is aggressively attempting to steer Israeli governance towards that of a liberal constitutional democracy. Such attempts have often collided with the religious establishment as currently constituted, organized and represented (what I believe to be important qualifications). However, an opinion that is perceived as ruling against the religious establishment does not mean that its authors are anti-religious any more than an opinion favoring freedom of speech, despite its obscene content, means that its authors are in favor of obscenity.

Jurisprudence often involves the weighing of two important values, and a balancing test must be conducted whereby one value must prevail. The Supreme Court is intent on creating a liberal democracy in a manner that the judges believe to be consistent with the Basic Laws passed by the Israeli legislature. Therefore, the judges often place greater value on ensuring democratic freedoms for Israeli society and often rule “against religion” when religion encroaches upon the freedom of the individual. By way of example, the Supreme Court’s ruling in favor of Bar-Ilan Street remaining partially open on shabbat was motivated by libertarian concerns of freedom of movement, not by a desire to show any disregard for the concerns of the street’s ultra-religious neighbors. In fact, even a cursory reading of the Court’s opinion (which one wonders whether the Court’s critics even read) reveals the Court’s struggle with the two competing values and the respect shown to both. In short, the judges are “pro-democracy”, not “anti-religious.”

There is much debate surrounding the actions of the Supreme Court and there is legitimate grounds for opposing viewpoints and honest criticism. It is legitimate to question (or even accuse) the Court of exceeding its authority or mistakenly treating the Basic Laws as having constitutional or quasi-constitutional status. These issues belong in the public arena, and should be subject to internal debate. However, accusations of anti-religious bias leveled against Israeli judges based solely on their rulings is immoral in respect to those that may be falsely accused and harmful to an already divided Israeli society. Accusations of

anti-religious bias also reveal an unsophisticated thought process that is unable to conjure other motives for the Court's rulings.

One further point must be made. There are those in the religious establishment who favor the types of decisions and directives advocated by the Supreme Court of Israel. To dismiss these people as "anti-religious" or more charitably as "self hating religious Jews" belies a lack of sophistication and willingness to examine positions contrary to one's own. It is quite possible to agree with the direction of the Supreme Court and yet remain fervently and passionately committed to Orthodox Judaism. Labeling people as "anti-religious" should be saved for those who truly are; it should not be bandied about as an epithet for those we disagree with.

Last year, a few days before the Supreme Court left for Pesach break, President Barak was speaking at the annual pre-Pesach party arranged for the judges and their clerks. In the middle of his speech, former Justice Menachem Elon, renowned expert in Jewish law and outspoken ideological foe of Barak vis-à-vis the role of religion within Israeli law and society, entered the courtyard. Having read about their deep ideological divide and never having seen them in the same room before (former Justice Elon teaches abroad half the year), I was curious to observe how the two men interacted. Upon Elon's entrance, Justice Barak stopped in the middle of his speech, turned away from the podium and the two men warmly embraced. Returning to the podium with a broad smile, Justice Barak announced how happy he was that his friend Menachem was able to join the party and how much his presence meant to him. I believe we in the religious community have much to learn from how these men treat their ideological foes.

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## THE RAV ON ZIONISM, UNIVERSALISM AND FEMINISM

TO THE EDITOR:

In his critique (*Tradition* 34:2, Summer 2000) of my article in *Tradition* (33:1, Fall 1998), Rabbi Simcha Krauss tries to show that my portrayal of the Rav is inaccurate. R. Krauss not only grievously misunderstood the Rav; he has failed even to understand my own clear words.

My knowledge of the Rav is entirely first hand and is not deduced by inference or from secondary sources. Besides being the Rav's nephew, I learned with him continually from the time I was seventeen until I was twenty nine. After that, I remained in close contact with the Rav and discussed all of my *she'elot* with him. Most of my learning with the Rav was not in his regular shiur but was in the form of a one-on-one *havruta* in Boston, where the Rav would learn with me and his son-in-law, the late Talner Rebbe. In addition, not only did I *daven* in the Rav's *shul* for over twenty years, but for many years I functioned as the *gabbai*. During my time in Boston, I was a year-round *ben bayit* in his home. When I moved to New York and attended the Rav's shiur, I took care of his needs in New York and drove him to the airport every week. Furthermore, I discussed with the Rav, in detail, many personal and communal issues, including many of the radical changes that took place from the late fifties through the time that the Rav took sick. I do not have slight and incidental knowledge of the Rav; he is someone that I know essentially.

As to the identity of the Rav's views on Zionism with that of his uncle, I never and could not have made such a foolish claim, as R. Krauss maintains. I responded to this absurdity in my previous letter to the editor in *Tradition* (33:2, Winter 1999).

Let me quote again what was already published in *Tradition*.

No one could make such a foolish assertion (i.e. that the Rav's approach to Zionism was identical to that of his uncle). The Rav welcomed Ben-Gurion to Yeshiva University. The Rav was an active member of Mizrahi. He viewed the State in a positive manner and did not view it as demonic or pragmatically a disaster as many others did. However, my point was that there is a difference between something that has pragmatic value and something that has intrinsic value. *Shabbat* has a great impact on the lives of all of us. One cannot deny its pragmatic value. However, being a *mitsva*, it has intrinsic value and hence it is obligatory on all of us even when it has either no impact or even negative impact. All of the adduced quotes from all of the authors (to whom I responded in the previous letter to the editor) do not demonstrate a different approach that the Rav may have taken to the State of Israel than I described."

Zionism was not my concern in my article and what I said was an *obiter dictum* to my main point that only something with halakhic meaning had religious validity. What I have to say about the Rav and Zionism can be found in my previous letter to the editor, where I have already replied to the plethora of quotes that R. Krauss brings.

The Rav had broad intellectual interests. His intellectual frame of reference was broader than anyone with whom I ever have had contact. His intellectual vision was very large, but, *tachlis*, he was interested only in the physical and spiritual welfare of *kelal Yisrael*. His intellectual interests were universal; his social concerns were narrow. I don't see anything quoted by R. Krauss that changes that simple fact.

On the topic of Soviet Jewry, had R. Krauss quoted people involved in the movement to save Soviet Jewry, I would have been surprised. Indeed, I remember when the Rav warned his *talmidim* who were involved in the struggle for Soviet Jewry, that they were endangering the lives of the Jews in Russia. "I know the Russians," shouted the Rav, "and the Russian is like a bear; when you get him angry he reacts." R. Krauss quotes the Rav on activism and then extrapolates to Soviet Jewry. I also quoted the Rav on activism and said that there was no possibility of extrapolating to anything else.

I discussed at length when and how the Rav decided to take strong public stands. The *shetar mekhira* was a very important issue for him. He had a number of reasons for his insistence on his *issur*. First and foremost was the fact that my grandfather, Rav Moshe *zt"l*, took a very strong position on the *shetar mekhira*. Second, the Rav felt that the *shetar mekhira* would undermine the battle for *shemirat Shabbat* at a time when he was at the forefront of that battle. The legal fiction of the *shetar mekhira* would never be respected by an American, he felt, and it would be interpreted to mean that we really don't take *Shabbat* seriously.

Being a "minimalist" meant something different to the Rav than it means to R. Krauss. It did not mean complete surrender. Such an approach was to be used as a general framework, and in that context he often decided to be a *mahmir*. A minimalist is not a *kal*. The Rav was a leader and not a halakhic computer.

In the Rav's shul in Boston, he recited the *tefilla lishlom hamedina*, but he remained silent with his *tallit* over his head when the *tsibbur* recited *Hallel* on *Yom Ha'atma'ut*. I record all of the above in my article, and wonder why R. Krauss seems to feel that I am oblivious to many years of my own life experience. What is interesting is that all of this was begun not in 1948, at the establishment of the State, when the Rav was still living in Roxbury, but in 1963, when he moved to Brookline. This reflected, as he himself pointed out, the needs of the specific community that he was serving, rather than his own view. It is unfortunate that R. Krauss has to reach out to secondary and tertiary sources to prove to me what I experienced personally for many years.

However, the essential interest of R. Krauss is not in the above but in his two main points—that the Rav was interested in rescuing the halakha from pietism and that he was not opposed to feminism in the way I and the Rav's grandson, Rabbi Mayer Twersky, record. R. Krauss therefore concludes that we are doing this in pursuit of some undeclared agenda.

The absurdity of the first point needs no response. However, one thing is clear from a multitude of the Rav's *derashot*, and that is that he found himself incapable of communicating his own genuine piety to the modern American community. (See for instance Aaron Rakeffet-Rothkoff, *The Rav*; Ktav, 1999, pp. 164-185.) Although R. Krauss mentions the fact that my grandfather, Rav Moshe *zt"l*, told the Rav to learn rather than say *Tehillim* on *Rosh Hashana*, he neglects to quote the Rav's description of the deep religious emotion that was communicated to him by Rav Moshe *zt"l* and Rav Hayyim *zt"l* on the *yamim noraim*. This was something he felt was lacking in his *talmidim*, and something he felt inadequate to communicate. R. Krauss's comments are a case in point.

R. Krauss begins his proof of the second point with a quote from the Rav that men and women are of equal value. If space allowed, I would provide him a lengthy and more complete version of the Rav's *derasha* on the topic than the source that R. Krauss uses. This feeble proof indicates the enormity of R. Krauss's misunderstanding. Does he mean to imply that I and all of the *rabbanim* of Queens, who disagreed with R. Krauss regarding women's prayer groups, do not feel that women are of equal value? My wife recently participated in a discussion with the Women of the Wall. They wanted to know why *haredi* women are so upset with them. She told them that they denigrate her worship as a woman by saying that only a man's form of worship is of value. We do not denigrate women. Those who hold that the only way to make women of equal value is to teach them *gemara* and have women's prayer groups are in fact insulting three thousand years of Jewish women.

As proof of the fact that the Rav did not feel that women's prayer groups were beyond the pale, R. Krauss adduces two points. First, that the Rav did not oppose them with the vehemence that he opposed mixed seating; and second, that he chose not to join the *pesak* of the five *rashai yeshiva* of Yeshiva University. This is followed by the story that he told his *shamash* that should anyone make that claim it should be denounced.

My article delineates at length why the Rav did not denounce women's prayer groups at all. He certainly did not view them with the severity that he did mixed seating. A mid-Western rabbi once told me that he first took a pulpit that had mixed seating. The Rav permitted

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him to do this if in two years he could introduce a *mehitsa*. If not, he would have to leave. The Rav gave him guidelines how to act in those two years. At the same time, the women in that synagogue wanted to introduce a women's prayer group. The rabbi asked the Rav. The Rav told him, "You cannot fight a battle in two places. The *mehitsa* is the priority." This does not imply that the Rav permitted women's prayer groups. The Rav had his priorities.

As for the quote from Frimer, in the name of Brander: did R. Krauss even inquire of the five *rashei yeshiva* to determine the facts? Are we to assume that five of the Rav's leading *talmidim* would falsify the Rav's position and only his *shamash* would honestly defend him? Furthermore, no one would have thought the Rav would have "joined" the *pesak* of his five *talmidim*. They would not even have dreamt of asking him. This is not the way a true *talmid* deals with his *rebbe muvhak*.

I never assumed that the Rav was to be equated with other *rashei yeshiva*. The Rav was unique and *sui generis*. However, the most salient point in R. Krauss's article is when he says, "The Rav . . . (was) a master of *kol haTorah kulla*, a characterization given to him by *Mori ve-Rabbi* Rav Hutner *zt"l*." Apparently, R. Krauss is afraid that I have committed the heresy of confusing my *rebbe* with his. No. The Rav was different from all of his contemporaries, not only in the depth of his understanding of the entire Torah, but also in the scope of his understanding of the world. Therefore, it behooves us to protect his memory from those who really did not know him. Those of us who knew and experienced first hand that he was a master of *kol haTorah kulla* will not allow his teachings to be distorted. This is my only agenda. *Ze dodi ve'ze re'i benot Yerushalayim*.

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